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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Assessment and Collection of)
Regulatory Fees for Fiscal Year 2000)
)

MD Docket No. 00-58

**COMMENTS OF SPACE SYSTEM LICENSE, INC.,
MOTOROLA PACIFIC COMMUNICATIONS, INC. AND
MOTOROLA SATELLITE COMMUNICATIONS, INC.**

Space System License, Inc., Motorola Pacific Communications, Inc., and Motorola Satellite Communications, Inc., all wholly-owned subsidiaries of Motorola, Inc. (collectively, "Motorola"), hereby submit these comments in the above-captioned proceeding in response to the proposed revisions to the Commission's Schedule of Regulatory Fees. Congress, pursuant to Section 9(a) of the Communications Act, as amended, 47 C.F.R. § 159(a), has directed the Commission to collect regulatory fees for Fiscal Year ("FY") 2000.¹

Motorola currently holds both space and Earth station authorizations, which it was granted in connection with the operation of the Iridium System, a constellation of 66 operational satellites designed to provide two-way voice and data communications around the world primarily via mobile handsets. As the Commission is aware, however, the Iridium system is no longer in commercial operation: Iridium, LLC ("Iridium") has ceased providing services to its

¹ *In the Matter of Assessment and Collection of Regulatory Fees for Fiscal Year 2000*, MD Docket NO. 00-58 (rel. Apr. 3, 2000) ("NPRM").

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customers and is winding down its operations consistent with the decision of the United States Bankruptcy Court for the Southern District of New York. Accordingly, these authorizations should not be counted this year as “payment units” for purposes of calculating the fees due for the relevant services – in this case non-geostationary (“NGSO”) satellite and related Earth station services – nor should Motorola be required to pay regulatory fees for any service that ceases to operate prior to the date on which the regulatory fees are due.

Motorola’s position is premised upon the fact that the Iridium system is no longer an operating satellite system, and will very shortly no longer require any Commission oversight or regulatory action – the underlying regulatory *quid pro quo* for requiring fee payments. The Commission’s NPRM, however, suggests without explanation otherwise that such a change should not affect a licensee’s fee obligations. In particular, the NPRM explicitly states that “[a] pending change in the status of a license or permit that is not granted as of [October 1, 1999] is not effective, and the fee is based on the classification that existed on that date.”² The NPRM, however, directly conflicts with the prospective nature of the Commission’s regulatory fee policy.

Under the Commission’s Rules, licensees who hold authorizations as of October 1 of the preceding calendar year are normally obligated to pay the requisite annual regulatory fees, which are designed to cover the costs of regulatory oversight and policy decisions affecting a

² NPRM, ¶ 27. Additionally, the NPRM bases its proposed FY 2000 fee for the NGSO satellite service on three payment units, which apparently includes the Iridium system as well as the other two NGSO systems, OrbComm and Globalstar, licensed to Orbital Communications Corporation and L/Q Licensee, Inc., respectively.

licensee.³ This Commission policy, however, assumes that a licensee who holds an authorization as of the preceding October will continue to provide service throughout the remainder of the fiscal year. In fact, the Commission has recognized the forward-looking nature of its regulatory fees in the *1994 Regulatory Fee Order*: “We have selected October 1 as the date for calculating these fees since October 1 is the first day of the fiscal year and, therefore, current licensees subject to the fees would have benefited from our regulatory activities *since the beginning of the period covered by their payment*.”⁴ This is clearly not the case with respect to licensees who cease operations after October 1.

The Iridium system is a case in point. As the Commission is aware, Iridium is winding up its business as a result of a liquidation order by a bankruptcy court. As of March 18, 2000, the Iridium system satellites and associated Earth stations for which Motorola remains the licensee are no longer providing fee-based services to any customers. Motorola will only be operating the Iridium constellation, and the associated Earth stations, pending completion of the process of de-commissioning the satellites. Accordingly, there will very shortly no longer be any need for regulatory oversight. Further, since March 17, 2000, there have been virtually no revenues or other income from operations of the Iridium system to pay for any regulatory fees.⁵ Fairness dictates that the Commission no longer include the Iridium system in its calculation of payment units for NGSO satellite systems.

³ *In the Matter of Implementation of Section 9 of the Communications Act Assessment and Collection of Regulatory Fees for the 1994 Fiscal Year*, 9 FCC Rcd. 5333, ¶ 48 (1994) (“*1994 Regulatory Fee Order*”).

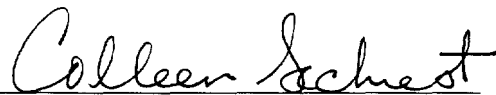
⁴ *Id.* (emphasis supplied).

⁵ In turn, Motorola has not received any payments from Iridium for some time for operating and maintaining the satellite constellation.

In short, it would not be equitable, consistent with prior Commission policy, or otherwise in the public interest to require Motorola to pay the fiscal year 2000 regulatory fees associated with the satellite and Earth station authorizations for the Iridium system.

Accordingly, Motorola respectfully requests that the Commission adopt a Fiscal Year 2000 Schedule of Regulatory Fees that is consistent with the foregoing comments.

Respectfully submitted,



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